Exhibit 7

ANDREW M. CUOMO Governor ANTHONY J. ANNUCCI Acting Commissioner

Office of Special Investigations

Investigative Report

1/12/2018

I. Background

OSI Case #: IAD/17/1467 Incident Date: October 7, 2017

Facility / Parole Office: Wende Correctional Facility

Complaint Source: Wende Correctional Facility (CCC# 262062)

<u>Initial Allegation:</u> On Friday, October 6, 2017, Inmate Dante Taylor 16A3177 was on an outside medical trip at ECMC prior to incident for ingesting synthetic Marijuana. The next morning, Saturday, October 7, 2017, Taylor was discharged and returned to Wende CF at 5:30am, and admitted into the facility infirmary. At approx. at 10:20am, CO Barron was conducting rounds in the infirmary, and discovered Inmate Taylor sitting on the floor with a sheet around his neck, and affixed to a railing on the wall. Officer Baron called for a medical response. Inmate Taylor was pronounced dead at 11:51am by Dr. Ede at St. Joseph's Hospital.

Additional Allegations:

Inmates allege that on the evening of October 6, 2017, Taylor was assaulted inside of his cell by numerous officers.

II. Summary of Investigative Findings

The investigation **Substantiated** the allegation that Inmate Dante Taylor 16A3177 died as a result of asphyxia due to hanging, as noted by the Erie County Medical Examiner, Report of Autopsy, (M.E. Report 2268-17). The <u>Cause of Death</u> was listed as Hanging, and the <u>Manner of Death</u> was listed as Suicide.

The investigation **Substantiated** the allegation made by inmates at Wende Correctional Facility that on the evening of October 6, 2017, Taylor was assaulted inside of his cell by numerous officers after responding to a medical emergency. As noted by the Erie County Medical Examiner's, Report of Autopsy, inmate Taylor was identified to have numerous recent blunt injuries of the head, torso and extremities, particularly on the right side of the body. These injuries are not consistent with staffs' description of force used, but consistent with the reported staff assault as reported by inmate witness

The investigation **Substantiated** the allegation that official documents submitted to support Use of Force Report (#17-030), contained false statements. Specifically, that Sergeant Lewalski, Correction Officers White, Janis and Horbett responded to Inmate Taylor's cell and found Taylor lying on the floor of his cell thrashing violently, screaming, and that Inmate Taylor was striking his head, face, and body on the floor, and lockers as he flailed violently. The investigation determined as noted above that Taylor suffered injuries that were classified by the Erie County Medical Examiner's office that the injuries were not consistent with being self-inflicted, in contrast to written and verbal statements made by Sergeant Lewalski, Correction Officers White, Janis, and Horbett. Furthermore, the investigation determined based upon staff statements and inmate interviews that Correction Officers Melvin Maldonado, Dwight Wyatt and Kelly McDonald were identified by staff and inmate interviews to have also participated in the Use of Force against Dante Taylor on October 6, 2017.

III. Summary of Investigation

On October 5, 2017, at approximately 12:16pm, Sergeant Waddell responded to Taylor's cell where Taylor was disoriented and throwing water out of his cell onto the company floor. Waddell ordered Taylor's cell to be opened in order to apply mechanical restraints. While being escorted off the company, Taylor admitted that he was high on K-2 (synthetic marijuana). Taylor was escorted and admitted to the infirmary. Taylor was issued a misbehavior report and charged with Creating a Disturbance and Drug Use. During the incident, Correction Officer Jeanne Turner while extracting Inmate Taylor from his cell, slipped on water and fell to the floor,

On October 6, 2017, Use of Force Report #17-030, Sergeant Lewalski, Correction Officers Horbett, White and Janis responded to medical emergency in Taylor's cell. It is reported that Taylor was found thrashing around, and was harming himself. It is reported further that the officers used body holds to restrain Taylor, and placed Taylor in mechanical restraints. Taylor was then escorted to medical. Use of Force Report #17-030, noted the following injuries to Taylor, right eye, right side of face, and swollen upper lip with a cut.

Following the Use of Force Report #17-030, Sergeant Lewalski issued Inmate Taylor a Misbehavior Report on October 6, 2017. Again, Lewalski noted that that Taylor was thrashing on the floor violently, striking his head, face, and body on floor and cell lockers, and that Lewalski, Horbett, White, and Janis used their body weight to restrain him. The MBR noted that Taylor was sent to ECMC as a result of self-inflicted injuries and assessed as being under the influence of K-2

A review of Taylor's Inmate Injury Report filed as result of the incident noted that on October 6, 2017, RN Diane DiRienzo, noted that Taylor had a large hematoma under his right eye, swollen right side of face, swollen right side of upper and inner lip with small cut. The report further stated that cause of Taylor's injuries was ingestion of K-2, and that Taylor was very agitated and combative.

On October 6, 2017, Unusual Incident Report #262047, was created as a result of search of Taylor's cell, after Taylor had been taken to medical under suspected influence of K-2. Correction Officer Domino recovered 2 rolled cigarettes that contained a green leafy substance found to be K-2.

An Inmate Misbehavior Report was issued to Taylor related to Unusual Incident Report #262047, on October 6, 2017 for Drug Possession. The MBR noted that Domino performed a cell frisk of Inmate Taylor's cell on October 6, 2017, at approximately 11:30pm, under the direction of Lt. Sowa. The search resulted in the seizure of two rolled cigarettes that contained a green leafy substance, both tested positive for .1 grams of synthetic cannabinoids. The Erie County ME's Office (M.E. Report 2268-17), noted that toxicological testing was performed on Taylor, and is non-contributory to death. The report further noted that Taylor's post-mortem urine was screened positive for metabolites of the synthetic cannabinoid substances; 5- Fluor ADB and AMB-Fubinaca.

On October 7, 2017, Unusual Incident Report #262062, reported that at approximately 10:20am, Correction Officer Baron found Inmate Taylor slumped against the wall with a sheet around his neck affixed to a handrail in the infirmary. The report noted that CPR was initiated and AED applied with no shock advised. Taylor was transported to St. Joseph's Hospital where he was pronounced dead.

Finding to Support Initial Allegation:

The investigation **Substantiated** the allegation that Inmate Dante Taylor 16A3177 died as a result of asphyxia due to hanging. The Erie County Office of the Medical Examiner, Autopsy Report, in M.E. Report 2268-17, noted Taylor's autopsy demonstrated findings consistent with hanging,

including conjunctival petechiae and subconjunctival hemorrhages. The Report noted that there was no discernible ligature furrow of the neck, but this can be attributed to the wide, soft ligature used and the relatively short amount of time spend suspended. The report noted further that there was no significant natural disease process to account for the death.

A review of facility records indicated that Taylor had four (4) prior Mental Health Referrals:

- 10/17/16 Taylor reports feeling hopeless and helpless.
- 1/5/17 Taylor reports feeling hopeless and helpless.
- 6/22/17 Taylor reports being suicidal and wants to see D. Mancini.
- 10/7/17 Taylor requests to see OMH, is quiet and sullen.

On October 7, 2017, Unusual Incident Report #262062, noted that at approximately 10:20am, Correction Officer Baron found Taylor slumped against the wall with a sheet around his neck affixed to a handrail in the infirmary. CPR was initiated and AED applied with no shock advised. Report notes that Taylor was transported to St. Joseph's Hospital where he was pronounced dead.

Baron, noted in his staff memorandum submitted as part of Unusual Incident Report #262062 and in his Deposition given to the New York State Police, that he was making rounds in infirmary at approximately 10:20am on October 7, 2017. He found Taylor unresponsive with a bed sheet twisted around his neck hanging from the grab bar on the wall. Baron noted he called RN Prishel and Correction Officer Theal who assisted him in cutting the sheet. Prishel started CPR and called the ER for a medical emergency. Baron reported that Taylor was transported to ER at approximately 10:35am.

Sergeant Will, noted in a staff memorandum submitted as part of Unusual Incident Report #262062 that he responded to the infirmary October 7, 2017, at approximately 10:20am, and found RN Prishel providing Inmate Taylor CPR, and Officers Baron and Theal assisting. Will noted that he was informed by Baron that he found Taylor seated with a sheet tied around his neck secured to the handrail next to the toilet.

RN L. Prishel, noted in a staff memorandum submitted as part of Unusual Incident Report #262062 and Deposition given to the New York State Police, that at 10:00am on October 7, 2017, Inmate Taylor requested to see OMH who advised they would be up to see him. Prishel stated she then completed a Mental Health Referral. Prishel stated that at approximately 10:20am, Baron called for assistance to Taylor's room. Prishel stated that she entered and saw Taylor hanging from the grab bar with a sheet tied around his neck. Prishel stated that she observed Baron and Theal cut Taylor down. Prishel stated that she began CPR.

Findings to Support Additional Allegations.

The investigation **Substantiated** the allegation made by inmates at Wende Correctional Facility that on the evening of October 6, 2017, Taylor was assaulted inside of his cell by numerous officers after responding to a medical emergency.

The Erie County Medical Examiner, noted that present at autopsy were numerous recent blunt injuries of the head, torso, and extremities, particularly on the right side of the body. Some of these injuries, while not lethal, are concerning for inflicted injuries (i.e., not self-inflicted), with a portion of those being consistent with the restraint techniques reportedly used.

The M.E. Report 2268-17 noted the following injuries, that are listed on the UOF report include:

- 1 ½ x 5/8-inch red-purple contusion posterior to the right pinna (Figure 1)
- 3 1/2 x 5/8-inch pink-purple contusion to the left groin (Figure 2)
- 9 ½ x 4 ¾ inch anterolaterally and 9 ½ x 5 ½ inch posteriorly irregular pink-purple contusion
 of the right chest
- approx. 14 x 6 ¾ inch area of irregular subcutaneous hemorrhage extending into the right flank (Figure 3)
- a hemorrhage of the 9th intercostal muscle
- 2 x 1 ¾ inch subcutaneous hemorrhage of the midline upper back (Figure 4)
- 7 ¾ x 2 5/8-inch subcutaneous hemorrhage of the midline lower back (Figure 4)
- several hemorrhages up to ¼ inch in a 'speckled' configuration over the right clavicle (Figure 5)
- 1 x ¾ inch hemorrhage to the left 6th intercostal muscle



stated on October 5, 2017, Taylor had an incident with K-2 and that correction officers. stated that on the evening of October 6, 2017, he was in the Taylor was sent to ECMC. adjacent cell and utilized his mirror to observe Taylor sitting on his bed with his arms out in front stated that Taylor did not respond or give any indication that he could hear stated correction officers responded in two to three minutes. correction officers waited for Sergeants Lewalski and Lambert before they opened the cell. stated that there were two sergeants and nine correction officers that responded to the cell. He stated that they waited approximately five minutes before they opened the cell. He stated that two officers rushed in and tackled Taylor on the bed and took him to the floor. identified one of the officers as Maldonado. He described the other officer as a white, slim male with a pony tail. The two officers were punching Taylor and yelling stop resisting. stated Taylor attempted to hide under the bed, but the officers continued to punch him and jam their sticks into the shoulder area. Stated Sergeant Lewalski sent two more officers into the began to yell, "They're beating him up! They're beating him up!" that the female Correction Officer, McDonald took mi<u>rror and b</u>roke it. stated that he observed two nurses on the front of the company. identified the following Correction Officers from their photos as being present: Jillian Freeman -1st responder. Kelly McDonald - outside of cell. Dwight Wyatt - in cell (punching shoulders and head). Sergeant Lambert – outside of cell. Sergeant Lewalski – doorway of cell.

Nicholas Zakowicz – in cell. Jason Brill - present during the Thursday or Friday incident.

stated during an interview that on Friday, October 6, 2017, that tated it took 20 minutes for 12 he heard the other inmates calling for the guards. stated that he heard one of the correction to 13 correction officers to respond. officers make a statement to the other that "We have the good sergeant". took this to mean that they have the good sergeant on duty to hit people identified the following security staff; Lewalski, Rivera, and Lambert tated that he did not see any women and described one correction officer as short, tan or brown skinned male, medium stated that a tall, white, nurse responded. build with black hair. cell and laughed. stated that approximately that she stood in front of six correction officers went into Taylor cell, and that Taylor screamed like he was getting beat up. was holding a mirror and yelled, "stop hitting him! Why are you guys hitting him! stated that Taylor's arms and hands were cuffed when He is not doing anything!"

taken from the cell. He described the correction officers as: #1 fat, Hispanic male, who wore a

jacket. #2 white, short, male with green eyes and short brown hair. #3 chubby, tall, black male, with short hair who wore a hat. stated that on October 6, 2017, was interviewed. Inmate Sergeant Lewalski led seven to eight correction officers to Taylor's cell. Lewalski sent three correction officers into Taylor's cell. He heard the correction officers beating stated a male, bald sergeant and a female correction officer Taylor for four to five minutes. stated that while the correction officers were in Taylor's cell, the stayed outside of the cell. bald Sergeant watched from the hallway shaking his head. stated that the bald Sergeant is known to alleviate problems and that Sergeant Lewalski is known to take things too far. stated that on evening of October 6, 2017, Inmate that Taylor was having a seizure, and that all of the inmates on the company began yelling for stated that (2) two sergeants and (10-15) ten to fifteen correction medical assistance. officers responded to Taylor's cell. stated he only knew Sergeant Lewalski. that Lewalski has a reputation for being hands-on with inmates. stated that Lewalski stated that he then heard thumping around opened the cell and sent in (4) four officers. stated that Taylor was then carried down the company. while Taylor was screaming. was hurt the previous day responding to an stated further that Correction Officer incident with Taylor, and that he heard an unknown officer tell Taylor that he hurt Officer stated on a phone call that he lost his friend who was beaten by stated further that the rumor is they threw him down correction officers after using K-2. the stairs, and that the next day, an inmate who gets dialysis saw him in the clinic getting his chest pumped and then he died. stated that Taylor had brain damage from K-2 use. yell that Taylor was laying stated during the interview that on October 6, 2017, he heard stated that inmates began to call for medical. He stated that on his bed shaking. correction officers came and asked Taylor if he was smoking K-2 again. Sergeant Lewalski ordered Correction Officer Freeman to open Taylor's cell and (3) three officers stated that he could hear Taylor yelling and the correction officers striking him. stated that correction officers carried Taylor out of his cell holding him by his arms and stated that on October 6, 2017, another inmate known as stated that on October 5, 2017, Taylor had an "episode" and up by Sergeant Lewalski. slipped and fell when responding to his cell. OSI investigators and the Special Agents from the Federal Bureau of Investigation interviewed other inmates located on Taylor's company who also provided similar supporting recollection of the incident that occurred on October 6, 2017 at Taylor's cell.

Findings to Support Additional Allegations:

The investigation **Substantiated** the allegation that official documents submitted to support Wende Correction Facility Use of Force Report #17-030, contained false statements.

Sergeant T. Lewalski stated on Use of Force Report #17-030, and the associated Inmate Misbehavior Report dated October 6, 2017, that he along with Correction Officers Horbett, White, and Janis responded to Taylor's cell at approximately 9:50pm. Lewalski stated that Taylor was thrashing on the floor violently, striking his head, face, and body on floor and cell lockers. Lewalski stated that the (3) three officers the entered the cell and ordered Taylor to stop the violent behavior. Lewalski stated that officers then used body holds to control Taylor who was placed in handcuffs, carried out of his cell, placed on a gurney, and then transported to medical. Lewalski stated during his sworn testimony that he responded to Taylor's cell on October 6, 2017 and that Taylor was violently thrashing on the floor, harming himself. Officers Horbett, White and Janis went into the cell to gain control of Taylor while he directed them from the cell door. Lewalski stated that the correction officers used body holds to hold Taylor down and were able to place him in mechanical restraints. Lewalski was asked if other correction officers were involved in the Use of Force and Lewalski stated no other officers were involved in Use of Force. Lewalski stated that Sergeant Lambert brought him flex cuffs and then left the company because he was not needed. Lewalski stated that RN DiRienzo was the responding nurse, but did not get close to Taylor's cell. After viewing the photographs of Taylor's autopsy, depicting numerous injuries sustained from blunt force trauma, Lewalski stated that he was not aware of how the injuries could have occurred.

Correction Officer Janis, noted on Use of Force Report #17-030, dated October 6, 2017, that he, along with Lewalski, Horbett and White responded to Taylor's cell and that Taylor was throwing himself violently on the ground. Janis stated he used his body weight once inside the cell to hold Taylor down and put his wrists and ankles in mechanical restraints with the assistance of Officer White and Lewalski. Janis stated during his sworn testimony that he responded from D-Block to Taylor's cell for the medical emergency on October 6, 2017. Janis stated that when he arrived, Taylor was lying on the floor, thrashing around violently. Janis stated Taylor was hitting himself on his bed, lockers, and floor, harming himself. Janis stated that Taylor was given commands to stop and calm down but he failed to do so. Janis stated that Lewalski ordered him, White and Horbett into the cell to gain control. Janis stated that they carried Taylor down the company, face down, downstairs and placed him on a gurney. After viewing the photographs of Taylor's autopsy, depicting numerous injuries sustained from blunt force trauma, Janis stated that he was not aware of how the injuries could have occurred.

Correction Officer White noted on Use of Force Report #17-030, that he, Lewalski, Horbett and Janis responded to Taylor's cell on October 7, 2017, (incident occurred October 6, 2017 at approx. 9:50pm). White noted that Taylor was violently thrashing and throwing himself on the floor, slamming into his locker, toilet, and bed posts, and that all three officers and the sergeant entered the cell. White noted that he used his body weight to force Taylor to the floor. White noted that Sergeant Lewalski then placed Taylor's wrists and ankles in mechanical restraints. White stated during his sworn testimony that he responded to Taylor's cell for a medical emergency on October 6, 2017. White stated that he was working as a B-Block recreation officer. White stated that when he arrived at Taylor's cell, Taylor was on the floor, face down, thrashing around hitting himself on the bed, lockers, and floor. White stated that Taylor was screaming and would not follow commands to stop. White stated that Lewalski ordered him, Janis and Horbett into the cell to gain control. White stated he was told to take control of Taylor's right arm. White stated that Taylor was eventually placed in restraints and carried out of his cell down the company. White stated that Taylor was carried downstairs and placed on a gurney and was escorted by uninvolved staff escorted him to medical. White stated at no time did he kick, punch, or use his baton on Taylor. When shown Taylor's autopsy photographs depicting blunt force trauma injuries, White stated he was not aware of how the injuries occurred.

Correction Officer Horbett, noted on Use of Force Report #17-030, that he, Lewalski, White and Janis responded to Taylor's cell on October 6, 2017, for a medical emergency. Horbett noted that Taylor was thrashing around his cell hitting his head and body against the lockers and cell bars. Horbett noted that attempts were made to talk and calm Taylor down, but they were unsuccessful. Horbett noted that Lewalski, White, and Horbett grabbed control of Taylor's wrists and Lewalski applied mechanical restraints. Horbett stated that he grabbed ahold of Taylor's ankles and Lewalski applied Flexi-cuffs. Horbett stated during his sworn testimony that on the evening of October 6, 2017, he responded to a medical emergency for Inmate Taylor at A-2-17 cell after hearing a call over the PAS. Horbett stated that there was a nurse and multiple other officers present, but that he could not recall who they were. Horbett stated he, Lewalski, Janis and White went into Taylor's cell, restrained him, and carried him out and down the company. Horbett stated that he did notice Taylor's face had swelling and redness on his right eye, although Taylor was face down during the entire incident. When shown Taylor's autopsy photographs depicting blunt force trauma injuries, Horbett stated he was not aware of how the injuries occurred.

Sergeant Lambert, stated during an interview that he was working as the RMU Sergeant on October 6, 2017 from 2-10pm. Lambert stated that he responded to a medical emergency in A-Block at about 9:50pm. Lambert stated he heard Taylor was on K-2 so he tried to find leg irons, but could only find flexicuffs. Lambert stated Sergeant Lewalski was in the doorway of Taylor's cell and three or four officers were inside. Lambert stated he did not know the officers who were inside the cell, but it seemed like they were struggling with Taylor. Lambert stated that he handed Lewalski flexicuffs, and left to get a gurney ready after a minute or two. Lambert stated that he escorted Taylor to ER but did not see any injuries. Lambert stated during his sworn testimony that that he responded to the medical emergency for Taylor on October 6, 2017. Lambert stated that on his way, he tried looking for leg irons because he had a hunch that Taylor was on K-2 due to the many recent K-2 incidents with inmates. Lambert stated he found flexicuffs and when he got to the cell, he handed them to Lewalski who then told him to get a gurney ready. Lambert stated he went downstairs to get the gurney and waited for the officers to bring Taylor down. Lambert stated that he does not recall anyone present for the incident but Lewalski. Lambert stated that he did not look into Taylor's cell and did not see what was occurring.

RN D. DiRienzo, noted on the Inmate Injury Report dated October 6, 2017 that Inmate Taylor had a large hematoma under his right eye, swollen right side of face, swollen right side of upper and

inner lip with small cut. DiRienzo noted that the cause of Taylor's injuries were a result of ingestion of K-2, and that Taylor was very agitated and combative. DiRienzo was interviewed by OSI and stated that she did respond to a medical emergency for Inmate Taylor. DiRienzo stated she got to A-block, and was told that she couldn't go near Taylor's cell because he was agitated. DiRienzo stated she does not know who any of the responding staff was except Nurse MacDonald and that the inmates were yelling that officers were hurting Taylor, but she did not hear anything from Taylor's cell. DiRienzo was interviewed and stated that she responded to a medical emergency October 6, 2017, on A-block. DiRienzo stated that when she got to Taylor's cell, there were (5-7) five to seven correction officers outside the cell. DiRienzo stated that RN McDonald was already at the cell, but was soon sent to the corridor. DiRienzo stated she could not see or hear anything in the cell, but inmates were yelling that Taylor was getting beaten. DiRienzo stated that an unknown white female officer was there outside the cell and told her to stay back. During sworn testimony, DiRienzo stated that when she got to 2 company, she was told by a young, short female with short dark hair to stay away from Taylor's cell because he was very agitated. DiRienzo stated that she stayed 3-5 cells away from Taylor's cell. DiRienzo stated that there were ten or more officers who responded to the cell and they were standing in front of the cell for the duration of the incident.

RN MacDonald, stated during an interview with OSI that she was working the 3-11 shift on October 6, 2017, and did respond to a medical emergency for Inmate Taylor. MacDonald stated that she entered Taylor's cell and that Taylor was combative and flailing around, trying to hide. MacDonald stated that she was on the unit for approximately 20 minutes and did not notice any injuries on Taylor. In an interview with the Federal Bureau of Investigations, MacDonald stated that she responded to a medical emergency on October 6, 2017, related to Dante Taylor. MacDonald stated that when she arrived, there were two to three correction officers in Taylor's cell and approximately (5) five correction officers standing outside of the cell. She stated that Taylor was not attempting to harm himself. He became combative when officers tried to restrain him, and that the correction officers ended up forcefully holding him to the ground.

During the course of inmate interviews, Correction Officer Melvin Maldonado was identified by (3) three inmates, Correction Officer Dwight Wyatt identified by (2) two inmates and Correction Officer Kelly McDonald *was* identified by (9) nine inmates, to have participated in the Use of Force against Dante Taylor on October 6, 2017.

IV. Findings and Recommendation

• Initial Allegation:	Substantiated ■ Substantiated	☐ Unsubstantiated	☐ Unfounded			
Additional Allegation:	⊠ Substantiated	☐ Unsubstantiated	☐ Unfounded			
Other Findings:	□ Yes	⊠ No				
• PREA:	□ PREA	☑ Not PREA				
□ S-1 □ S-2	□ I-1	□ I-2	□ I-3			
Refer to:						
☐ No Referral	Date: Click or tap to e					
⊠ Bureau of Labor Relations	Date: 3/15/2018					
☐ Criminal Prosecution	Date: Click or tap to					
□ DOCCS Executives	Date: Click or tap to enter a date.					
☐ Community Supervision Administration Date: Click or tap to enter a date.						
☐ Facility Administration	Date: Click or tap to enter a date.					
☐ Other	Date: Click or tap to enter a date.					

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☐ Close case, if no referra	al(s) or other	reco	mmendat	ions.		
• If Other, Explain:	Describe					
Administrative Review /	Change of a	Poli	icy and P	rocedure:_	☐ Yes	□X No
• If Yes, Explain:	Describe					
Closed Case Victim Noti	<u>fication</u>		Yes	□ N	/A	
Close Case Subject Noti	<u>fication</u>		Yes	□ N	/A	
Report Prepared by:						
Nick Lang Investigator						
Signature	Report Rev	_			Date: 12/19/2017	
Kevin Ryan, Assistant De	puty Chief of	inve	<u>sugations</u>			
KrrSignature					Date: 2/9/2018	